

SENATE BILL 470

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2004 Regular Session
4r2417

By: ~~Senators Grosfeld, Britt, Gladden, Hughes, and Teitelbaum~~ Teitelbaum, Exum, Kelley, and Della

Introduced and read first time: February 6, 2004

Assigned to: Finance

Committee Report: Favorable with amendments

Recommitted to: Finance, March 29, 2004

Committee Report: Favorable

Senate action: Adopted

Read second time: April 3, 2004

CHAPTER _____

1 AN ACT concerning

2 **Civil Actions - Defenses - Sales of Food, Drugs, Cosmetics, and Other**
3 **Health-Related Products**

4 FOR the purpose of abolishing in certain civil actions a defense of indirect contact
5 with the plaintiff for a person that sells, distributes, or otherwise disposes of
6 food, drugs, cosmetics, and certain other health-related products; authorizing
7 the person to prove, as a partial or complete defense against a damage claim, in
8 order to avoid duplicative liability, that all or any part of an alleged overcharge
9 ultimately was passed on to another person by a purchaser or seller in the chain
10 of manufacture, production, or distribution who paid the alleged overcharge;
11 providing for the application of this Act; and generally relating to the sale or
12 distribution of foods, drugs, cosmetics, and other health-related products.

13 BY adding to
14 Article - Health - General
15 Section 21-1114
16 Annotated Code of Maryland
17 (2000 Replacement Volume and 2003 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Health - General

2 21-1114.

3 IN ANY ACTION BROUGHT UNDER § 11-209 OF THE COMMERCIAL LAW ARTICLE,
4 A PERSON THAT SELLS, DISTRIBUTES, OR OTHERWISE DISPOSES OF ANY DRUG,
5 MEDICINE, COSMETIC, FOOD, FOOD ADDITIVE, COMMERCIAL FEED, AS DEFINED IN §
6 6-101 OF THE AGRICULTURE ARTICLE, OR MEDICAL DEVICE MAY NOT, IN ANY
7 ACTION BROUGHT UNDER § 11-209 OF THE COMMERCIAL LAW ARTICLE,

8 (1) MAY NOT ASSERT AS A DEFENSE THAT THE PERSON DID NOT DEAL
9 DIRECTLY WITH THE PLAINTIFF; AND

10 (2) MAY PROVE, AS A PARTIAL OR COMPLETE DEFENSE AGAINST A
11 DAMAGE CLAIM, IN ORDER TO AVOID DUPLICATIVE LIABILITY, THAT ALL OR ANY
12 PART OF AN ALLEGED OVERCHARGE ULTIMATELY WAS PASSED ON TO ANOTHER
13 PERSON BY A PURCHASER OR SELLER IN THE CHAIN OF MANUFACTURE,
14 PRODUCTION, OR DISTRIBUTION WHO PAID THE ALLEGED OVERCHARGE.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
16 construed prospectively to apply only to an action brought under § 11-209 of the
17 Commercial Law Article on or after the effective date of this Act.

18 SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take
19 effect October 1, 2004.